

### **REMARKS**

Claims 1, 3-14, 16-22, 24-36 and 38-49 were pending in the application. Claims 1, 3-14, 16-22, 24-36 and 38-49 stand rejected. Through this Response and Amendment, claims 1, 13, 17, 21, 30-31, 34, 41, 45, and 48 have been amended and claims 5 and 38-40 have been canceled. No new matter has been introduced into the application. As explained in more detail below, Applicants submit that all claims are in condition for allowance and respectfully request such action.

#### **Claim Rejections – 35 USC § 103**

Claims 1, 3-14, 16-22, 24-36 and 38-49 were rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 6,269,285 to Mignault (“Mignault”).

Amended claim 1 recites, “an indicia strip containing a pattern of bits.” The Office Action alleges Mignault discloses all of the features of claim 1, including an indicia strip. To show the indicia strip, the Office Action points to Fig. 5, and specifically the magnet 102. In Fig. 5, Mignault shows a permanent magnet 102 with “N” and “S” representing the north and south poles of the magnet. The N & S, even if printed on the magnet, does not equate to an indicia strip *containing a pattern of bits*, as recited in amended claim 1.

Amended claim 1 also recites, “a sensor assembly configured to detect the position of the pusher assembly by scanning the indicia strip and determining a code based on the pattern of bits scanned.” Mignault discloses multiple positions sensors that are mounted along a bin and produce an output signal in response to a magnetic field from a permanent magnet attached to a stack plate. Mignault, col. 5, l. 56-60. Therefore, even if the “N” and “S” were printed on the magnet 102 of Mignault, the device in Mignault does not scan the “N” and “S” printed on the magnet to determine a code. Thus, the device disclosed in Mignault does not teach or suggest a sensor assembly configured to detect the position of the pusher assembly *by scanning the indicia strip and determining a code based on the pattern of bits scanned*, as recited in claim 1.

Furthermore, the claimed invention does not function in the same or even in a similar manner as the device in Mignault, and the claimed invention offers improved inventory tracking

in a more simplified device than that of Mignault. Thus, the indicia strip recited in the claimed invention would not be a matter of design choice. Accordingly, amended claim 1 is allowable over Mignault.

Independent claims 13, 21, and 45 contain similar features as those in independent claim 1. Therefore, claims 13, 21, and 45 are all allowable over Mignault for at least the reasons discussed with respect to claim 1. Claims 3-4 and 6-12, 14-16, 22 and 24-25, and 46-47 all depend directly or indirectly from their base claims 1, 13, 21, and 45, respectively, and are allowable over Mignault for at least the reasons as their ultimate base claim.

Independent claim 17 recites, “an indicia strip configured to provide a representation in a pattern reflecting the position of the pusher assembly on the shelf,” and “a sensor assembly configured to transmit a pusher code, the pusher code based on the representation on the indicia strip.” As discussed above with respect to claim 1, Mignault discloses multiple sensors that produce an output signal in response to a magnetic field created by a magnet. Therefore, Mignault does not disclose an indicia strip configured to *provide a representation in a pattern reflecting the position of the pusher assembly on the shelf*, as recited in claim 17. Furthermore, Mignault does not disclose a sensor assembly configured to transmit a pusher code based on the representation on the indicia strip, as recited in claim 17. Nor is the indicia strip a matter of design choice, as discussed above with respect to claim 1. Accordingly, claim 17 is allowable over Mignault.

Independent claims 26, 31, 34, 41, and 48 contain similar features to claim 17. Thus, claims 26, 31, 34, 41, and 48 are allowable over Mignault for at least the reasons discussed with respect to claim 17. Claims 18-20, 27-30, 32-33, 35-36, and 42-44 depend from independent claims 17, 26, 31, 34, and 41 respectively, and are allowable over Mignault for at least the reasons as their base claim.

Independent claim 38 and dependent claims 5, 39, and 40 have been cancelled, rendering the rejection moot.

**CONCLUSION**

The Applicants respectfully request consideration of the application and allowance of all pending claims. Please feel free to contact the undersigned should any questions arise with respect to this case that may be addressed by telephone.

Respectfully submitted,  
**BANNER & WITCOFF, LTD.**

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